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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,820	10/29/2003	Kar Keong Low	Lear04048	2819
23688	7590	07/06/2004	EXAMINER	
Bruce E. Harang PO BOX 872735 VANCOUVER, WA 98687-2735			D ADAMO, STEPHEN D	
			ART UNIT	PAPER NUMBER

3636

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/605,820

Applicant(s)

LOW ET AL.

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/29/2003</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the fluid damper (claims 19 and 20) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted

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by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the plurality of "one way teeth" located on the lower end of pawl 5B as described in the specification. Also, the drawing fail to disclose the position each figure represents. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

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pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13, 14, 16 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claimed invention is confusing and unclear. Specifically, The Office is confused on the operation of the restraint assembly described on Pages 13-14. The operation, as understood, has the occupant apply an activating force or pressure rearward against the head restraint which causes the upper end of pawl to move rearward pivoting on the mounting rod 6 and causing the lower pawl end 5B to disengage. However, if a rearward force is applied to the top of the pawl and the pawl pivots, then the lower end of the pawl 5B would move forward and actually engage with the ratchet gear. Therefore, the pressing force on the plunger or head restraint would lock the assembly and not allow forward movement thereof. Further, it becomes more confusing since the drawings do not describe the operations as cited in the Specification.

The Specification is objected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The Specification contains subject matter which was not described in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claimed invention is confusing and unclear. Specifically, The Office is confused on the operation of the restraint assembly described on Pages 13-14. The operation, as understood, has the occupant apply an activating force or pressure rearward against the

head restraint which causes the upper end of pawl to move rearward pivoting on the mounting rod 6 and causing the lower pawl end 5B to disengage. However, if a rearward force is applied to the top of the pawl and the pawl pivots, then the lower end of the pawl 5B would move forward and actually engage with the ratchet gear. Therefore, the pressing force on the plunger or head restraint would lock the assembly and not allow forward movement thereof. Further, it becomes more confusing since the drawings do not describe the operations as cited in the Specification.

Moreover, page 10 discloses that when the rearward pressure is removed, the plunger 9 returns to a forward most position (lines 18-19). However, page 13 contradicts the previous statement by reciting, "the head restraint of the present invention is in a most rearward position upon the top of the seat back" (lines 10-12). Also, the Specification continues to disclose that the occupant of the seat applies a rearward force, which causes the plunger to move rearward. However, as understood, the head restraint cannot move rearward if the head restraint is already in the most rearward position. Clarification is needed.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 15 comprise numerous limitations lacking antecedent basis. Some examples are listed below for claim 1. Claim 15 is similar.

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- "the opposite direction" (line 13), the non-rack engaging end" (line 27), "the other pawl end" (line 19), "the distal end" (line 40), "said mounting sleeve" (line 41) and "the proximal end" (line 41) all lack antecedent basis
- "a rack gear" is positively recited twice, in lines 14 and 29. Further, it is confusing in that different terms appear to be utilized for the same element. The terminology should be consistent throughout the claims. Specifically, "toothed rack gear", "toothed rack" and "rack gear." Also, the "rack gear" 13 is well known in the art as a ratchet gear. The correct terminology is suggested.
- "a plurality of inertia springs" is positively claimed twice, lines 26 and 27-28.
- Line 16 of claim 1 recites, "a pair of directional teeth containing ends" and further claims "one pawl end" and "the other pawl end". For clarification purposes, it is suggested to include "first" and "second" preceding the limitation "pawl end". Therefore, both ends are positively claimed and clear.
- Claim 15 includes similar limitations with antecedent basis problems. Moreover, in line 22, there needs to be a space between "and" and "characterized". In line 35, there needs to be a space between "and" and "a".

Claims 12 and 18 positively claim "an occupant." The claimed invention cannot claim a person or any part of a person since it is directed toward non-statutory subject matter.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ikeda et al. (6,045,181), Fohl (6,033,0180, Fohl (5.934.750), Knoll et al. (5,842,738),

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Heilig et al. (5,820,2110, Schlosstein (2,973,029), Liu (2002/0070597) and Schmidt et al. (DE 19650321) all show various features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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June 23, 2004


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